

# Human Rights Treaties Division

## Background

### Functions and role of the Division

The human rights treaty bodies are independent committees that have been established under the international human rights treaties. They are composed of experts that are elected by States Parties, serving in their personal capacity. Treaty bodies monitor the implementation of human rights treaties through a system that allows for the periodic review of reports submitted by States Parties to each treaty. All international core human rights treaties are supplemented by optional protocols or contain optional provisions dealing with the consideration of individual complaints. Treaty bodies issue recommendations to States Parties, consider individual complaints, adopt general comments and conduct inquiries. One Committee undertakes visits to States Parties aimed at preventing torture and other cruel, inhuman or degrading treatment or punishment.

The Human Rights Treaties Division (HRTD) is responsible for implementing Subprogramme 2 of the Secretary-General's Strategic Framework entitled "Supporting human rights treaty bodies," developed to enhance the work of the 10 treaty bodies that are mandated to monitor implementation of the core international human rights treaties, including one treaty body mandated to carry out country visits under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT).

The 10 treaty bodies supported in 2011 comprise:

- ▶ The Human Rights Committee (HR Committee)
- ▶ The Committee on Economic, Social and Cultural Rights (CESCR)
- ▶ The Committee on the Elimination of Racial Discrimination (CERD)

- ▶ The Committee on the Elimination of Discrimination against Women (CEDAW)
- ▶ The Committee against Torture (CAT)
- ▶ The Subcommittee on Prevention of Torture (SPT)
- ▶ The Committee on the Rights of the Child (CRC)
- ▶ The Committee on the Protection of Migrant Workers and Members of their Families (CMW)
- ▶ The Committee on the Rights of Persons with Disabilities (CRPD)
- ▶ The Committee on Enforced Disappearances (CED)

The Office also advises States Parties and other stakeholders and conducts training on reporting and the implementation of recommendations. The recommendations of the treaty bodies are used in many other areas of the Office's work, including as background documentation for the Universal Periodic Review (UPR) and to support the work of the special procedures, thematic research undertaken by OHCHR and activities of OHCHR field presences.

The treaty body system is one of the success stories of the United Nations' efforts to promote and protect human rights. In ratifying the international human rights treaties,<sup>7</sup> States Parties undertake legal obligations to periodically and publicly report to these treaty bodies, which in turn assess the degree to which they have implemented the provisions of the treaties. This ongoing dynamic reporting function allows for a participatory process at the national level, which places human rights at the centre of governance. In addition, a number of treaties provide a possibility for individuals and groups to submit complaints about alleged violations of the treaties. The treaty body reporting process and the individual communications procedures include a follow-up function which represents a key element for ensuring the effective protection of all rights-holders everywhere. At the same time, the independence of the treaty bodies guarantees a

<sup>7</sup> International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, International Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Elimination of All Forms of Discrimination against Women, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Convention on the Rights of the Child, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Convention on the Rights of Persons with Disabilities, International Convention for the Protection of All Persons from Enforced Disappearance.

non-selective approach to all human rights, while their legal nature enables them to maintain a measure of distance from the risks of politicization. The accuracy and quality of the recommendations made by the treaty bodies are crucial attributes that must be sustained and enhanced so that treaty body recommendations can be used effectively by stakeholders to promote change at the national level.

In addition to supporting the treaty bodies, the HRTD is responsible for:

- ▶ Continuously updating the Universal Human Rights Index (UHRI) (see box below for more information);
- ▶ Administering the United Nations Voluntary Fund for Victims of Torture;
- ▶ Administering the Special Fund under the OP-CAT;
- ▶ Reflecting the outputs of the treaty bodies in the documentation for the UPR;
- ▶ Supporting the implementation of the Secretary-General's Study on Violence against Children;
- ▶ Implementing the requests addressed to OHCHR in Human Rights Council resolutions on child rights; and

#### Universal Human Rights Index

OHCHR manages the Universal Human Rights Index ([www.uhri.ohchr.org](http://www.uhri.ohchr.org)); the only electronic tool that allows for the retrieval of both individual recommendations and full documents from the treaty bodies, special procedures and the Universal Periodic Review, providing an opportunity to align, compare and analyse recommendations coming from the three pillars of the UN human rights system. The Index was developed to improve access to the outputs of the UN human rights mechanisms and thereby increase their visibility and transparency.

The website has been upgraded and is now available in all six official languages of the UN in order to contribute to the widest possible dissemination of recommendations. By enabling users to analyse and compare the recommendations of the three above-mentioned human rights mechanisms, the Index will assist States in adopting a coordinated approach to the implementation of recommendations, facilitate follow-up and simplify the work of those who use the conclusions and recommendations.

Users of the Index can view the assessments of UN human rights mechanisms on the status of implementation of human rights in any particular situation. The Index has also been made more accessible for persons with disabilities, including those individuals who are visually impaired or use assistive technologies, such as screen readers.

- ▶ Promoting the continued improvement and harmonization of the work of the treaty bodies through the annual meeting of treaty body chairpersons and consistent follow-up with the individual treaty bodies.

#### Developments in 2011

During the past 10 years, the number of treaty bodies supported by OHCHR has increased from five to 10; the annual number of weeks in session has grown from 44 to 71; and the number of experts has expanded from 74 to 172. The tenth committee, the Committee on Enforced Disappearances, was established in 2011. In its preparations to discharge its mandated functions under the Convention, the Committee adopted its provisional rules of procedures at its first session in 2011, and will proceed in future sessions to establish its methods of work.

The Subcommittee on Prevention of Torture saw its membership of experts increase from 10 to 25 in January 2011 which substantially increased its capacity to conduct country missions and other activities. As of 1 January 2011, the membership of the CRPD Committee also increased from 12 to 18 members, following the 80th ratification of the Convention on the Rights of Persons with Disabilities (CRPD). The Committee began receiving reports from States Parties in 2011 and initiated the reporting process through constructive dialogue. The initial reports of Tunisia and Spain were respectively reviewed in April and September of 2011. The Committee also began its consideration of individual communications submitted under the Optional Protocol.

In order to help it deal with a growing backlog of reports to be examined, the CRPD requested additional meeting time from the General Assembly. In December 2011, the Committee was granted one additional week per year. Similarly, the General Assembly granted the CAT and CERD Committees one additional week in 2011-2012 to address their backlogs of reports awaiting review. The Human Rights Committee amended articles 68 to 70 of its rules of procedure to enable the public examination of States Parties in the absence of a report.

#### Results

##### State engagement with human rights mechanisms (EA 6)

- ▶ A steady increase in the ratification of, and reporting to, international human rights treaties has been noted since early 2000, due in part to

engagement with the UPR mechanism. In 2011, the treaty bodies received a total of 118 State Party reports, including 10 common core documents.

- ▶ The treaty bodies adopted concluding observations on approximately 120 State Parties. In addition, the Committees of CAT, CEDAW, CERD and the Human Rights Committee examined and adopted final decisions on 232 communications and issued close to 45 requests for interim measures of protection for alleged victims at risk of irreparable harm. Committee members maintained contact and held meetings with the representatives of more than 10 States Parties concerning measures undertaken in response to findings of violations of CAT, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the International Covenant on Civil and Political Rights (ICCPR).
- ▶ The human rights treaty bodies held four widely attended informal meetings with States Parties (at which an average of 40 per cent of State Parties were present). The meetings provided an opportunity for States Parties and treaty bodies to discuss recent developments in the work of the treaty bodies, as well as other matters of common interest, in particular related to the improvement and harmonization of their working methods (CED, CERD, CRC and HR Committee). The shared information and knowledge will contribute to more effective follow-up, including through an increased understanding by States Parties of the workings and collaborative nature of the treaty body system.
- ▶ In 2011, the Subcommittee on Prevention of Torture carried out three country visits to: Ukraine (May 2011); Brazil (September 2011); and Mali (December 2011). During the visits, the SPT met with national authorities and representatives of civil society and conducted visits to a number of police stations, prisons and juvenile detention centres. The SPT visits resulted in recommendations to the authorities regarding effective safeguards against the risk of torture and ill-treatment in places of deprivation of liberty.
- ▶ Through capacity-building activities, OHCHR contributed to increased reporting by States Parties under the international human rights treaties, particularly CEDAW, the Convention on the Rights of the Child (CRC), and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). Support from OHCHR included training requested by States Parties on the common core document and treaty specific guidelines, reporting, individual communications and follow-up to



The Committee on the Rights of Persons with Disabilities in session, April 2011.

recommendations carried out in: Belize, Burkina Faso, Burundi, Congo, Croatia, Gambia, Honduras, Kyrgyzstan, Mexico, Sao Tomé and Principe, Serbia, South Africa, the former Yugoslav Republic of Macedonia, Turkmenistan and Viet Nam. OHCHR also held: a workshop for countries of the Western Balkans on strengthening the national implementation of recommendations of the treaty bodies, special procedures and UPR (Belgrade, 29 November - 1 December 2011); a seminar on follow-up to CERD concluding observations for representatives of Botswana, Namibia, South Africa, Zambia and Zimbabwe (South Africa, June 2011); and a regional workshop for 17 European countries on follow-up to the recommendations of treaty bodies, special procedures and the UPR (Brussels, March 2011).

- ▶ At a seminar in Burkina Faso in February 2011, judges, lawyers and other professionals of the administration of justice from six countries in West Africa (Benin, Burkina Faso, Mali, Niger, Senegal and Togo) adopted a declaration in which they committed, inter alia, to: raising awareness about the justiciability of economic, social and cultural rights among peers; encouraging the application of international human rights norms and standards in national jurisdictions; and promoting the inclusion of international human rights standards as well as national, regional, and international jurisprudence on human rights in the curricula of academic institutions and judicial education programmes. Participants also agreed on follow-up actions for each country which would include briefings to and exchanges with judges, lawyers and governmental organizations (NGOs) on the justiciability of economic, social and cultural rights. The seminar was organized by OHCHR



Members of the Committee on the Rights of the Child.

with support from the *Organisation Internationale de la Francophonie*.

- ▶ To improve the engagement and compliance of Governments with mechanisms and standards in relation to armed conflict, violence and security, HRTD provided fora for discussion and debate on relevant protection standards which increased understanding and clarity about the standards and ensuing obligations. In addition to the ongoing attention given to these issues in the context of the regular work of the treaty bodies in reviewing State Party reports, the Division, the Inter-Parliamentary Union (IPU) and the Office of the SRSG on Violence against Children organized a number of expert workshops on children's rights, including an expert meeting on the legal framework required to prohibit, prevent and respond to all forms of violence against children. A consultation of experts was also organized to prepare the OHCHR report on children working and or living on the street, with the support of Aviva, the Consortium of Street Children and UNICEF. Global research on children with street connections was prepared for the expert consultation, as well as a paper reflecting children's views. The OHCHR report on children working and or living on the street was introduced by the High Commissioner during the 19th session of the Human Rights Council in 2012. The report included recommendations to States to strengthen child protection systems and provide specialised support for children in street situations. It also highlighted the need to prevent and prohibit all forms of violence against children; decriminalize survival behaviours, such as begging, loitering, vagrancy and running away; and to develop systemic mechanisms to collect data about children in street situations. The report concluded that the number of children who

depend on the streets for their survival and development is not known and fluctuates according to socio-economic, political and cultural conditions, including growing inequalities and patterns of urbanization. It recognized that before reaching the streets, children will have experienced multiple deprivations and violations of their rights. A total of 106 children working and/or living on the street (24 girls and 82 boys aged between five and 18 years of age) were consulted.

### Civil society engagement with human rights mechanisms (EA 7)

In principal, engagement of civil society with the treaty bodies is well established. Besides providing information to the treaty bodies on country situations, civil society is also involved in thematic discussions.

- ▶ A day of general discussion on sexual violence in conflicts and post-conflict situations was held during the CEDAW Committee's 49th session in July. More than 300 participants attended from civil society as well as representatives from States, United Nations departments, programmes and specialized agencies. In 2012, a series of regional follow-up consultations will be held to discuss a draft general recommendation on this topic.
- ▶ A large number of NGOs participated in the Committee on Migrant Workers days of general discussion on 14 October 2009 (migrant domestic workers) and 19 September 2011 (rights of migrant workers in an irregular situation and members of their families) in addition to approximately 50 participants from civil society, States and United Nations departments, programmes and specialized agencies. Relatively few NGOs, however, provide country-specific information in the form of briefings during the Committee's sessions. For example, during the 13th and 15th sessions of the CMW, informal lunch briefings were organized by NGOs for Committee members in relation to only one out of three States Parties under consideration. On 30 November 2011, HRTD and SPB, together with the Friedrich Ebert Foundation, organized a side event during the civil society days of the Global Forum on Migration and Development in Geneva. The event, entitled "The Rights of Migrants in an Irregular Situation: Engaging with the UN Human Rights Mechanisms," provided a discussion forum on the main theme and a platform to promote the full engagement of civil society with human rights mechanisms dealing with the rights of migrants. It focused, inter alia, on the question of how NGOs can engage with and provide input into the work of the

Committee on the Protection of the Rights of All Migrant Workers and Members of their Families and the Special Rapporteur on the human rights of migrants. Increased NGO engagement will become more crucial in the future, particularly in light of the recent adoption by the Committee of an optional procedure for issuing lists of issues prior to reporting and a comprehensive reporting calendar aimed at considering all States Parties to the Convention within a five-year reporting cycle.

### International and regional laws and institutions (EA 8)

- ▶ On 19 December 2011, the General Assembly adopted the Optional Protocol to the CRC, permitting the Committee to receive and consider individual and inter-State communications and undertake inquiries. OHCHR supported the intergovernmental Working Group that prepared the draft optional protocol, including by sharing information on the existing communications procedures and advising on good practices. When article 77 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR) comes into force, all treaty bodies (except the SPT) will have the possibility of receiving individual communications; representing a significant step forward in improving human rights protection.
- ▶ General comments adopted by treaty bodies are meant to provide assistance and clarification to States Parties with regard to treaty provisions. They provide detailed and expert clarity that enhance the understanding of treaty provisions. General comments are therefore authoritative statements that assist States in implementing their treaty obligations:
  - As mentioned above, in 2011, the Committee on the Protection of Migrant Workers and Members of their Families commenced the preparation of General Comment No. 2 on the human rights of migrant workers in an irregular situation and members of their families with a view to improving understanding of the obligations of States Parties under the ICRMW. A first draft will be discussed by the Committee at its 17th session in September 2012.
  - On 7 March 2011, during its 78th session, the CERD Committee held a day of thematic discussion on racial discrimination against people of African descent. At its 79th session in August 2011, the CERD Committee adopted its General Recommendation No. 34 on racial

discrimination against people of African descent.

- In July 2011, the Human Rights Committee adopted General Comment No. 34 on freedom of opinion and expression, providing the most up-to-date understanding of this freedom in light of the Committee's considerable relevant jurisprudence.
- At its 56th session in February 2011, the Committee on the Rights of the Child adopted General Comment No. 13 on the right of the child to freedom from all forms of violence. On 30 September 2011, the CRC held a day of general discussion on the rights of children of incarcerated parents.
- On 22 November 2011, the CAT Committee held a public consultation on its draft general comment on article 14 of the Convention (right to redress and adequate compensation of victims of torture).
- ▶ In 2011, OHCHR organized a series of expert workshops on the prohibition of incitement to national, racial or religious hatred, as outlined in the ICCPR. The workshops were held in Bangkok, Nairobi, Santiago de Chile and Vienna and brought together approximately 45 experts from different backgrounds and 150 representatives from States and civil society, as well as UN departments, programmes and specialized agencies, who participated as observers. The experts analysed the respective regional situations and discussed possible legal and non-legal strategic responses to the incitement to hatred. Each of the events generated a wealth of information and a large number of practical suggestions for better implementation of relevant international human rights standards. To take full advantage of these rich results, OHCHR will convene a final expert meeting in the second half of 2012 and will



Meeting of the Human Rights Committee, July 2011.



Participants of a training on treaty body reporting, Pretoria, November 2011.

subsequently produce a report for the consideration of all stakeholders.

- ▶ In September 2011, an HRTD-commissioned study on treaty body jurisprudence was released. The study constitutes a review of the jurisprudence and findings of the human rights treaty bodies, issued between 1999 and 2009, in light of OHCHR's thematic priorities. The study resulted in a deeper understanding of how human rights treaty provisions should be applied in practice. It will also enable OHCHR to provide enhanced expert advice to all stakeholders and contribute to the strengthened implementation of human rights obligations of international human rights law. It will also assist treaty bodies to identify gaps in their work.

#### **Coherence among human rights mechanisms (EA 9)**

- ▶ The treaty body strengthening process continued in 2011 and included an informal technical consultation for States Parties, proposals put forward by NGOs, consultations held with academics and UN entities and a meeting in Dublin attended by treaty body chairpersons, experts and observers that resulted in the Dublin Outcome Document. The entire process will culminate in a compilation of the proposals generated since 2009 that will be presented in a coherent framework by the High Commissioner in 2012.
- ▶ As part of the harmonization process, treaty bodies continued refining the follow-up procedures to its concluding observations and decisions on individual communications and visits. The Human Rights Committee adopted a new format for its follow-up report. The Subcommittee on Prevention of Torture adopted a follow-up procedure regarding visit reports and established working groups to follow up on visits. Furthermore, the Committee on Migrant Workers adopted the “list of issues prior to reporting” procedure, following the practice of CAT and the Human Rights Committee.
- ▶ The Division provided support to the 23rd annual meeting of chairpersons of the human rights treaty bodies (MC) (30 June and 1 July 2011), and the 12th inter-committee meeting (ICM) (27 to 29 June 2011). The chairpersons considered a consolidated table prepared by the Secretariat at the request of the 11th ICM on the recommendations related to implementation adopted by the ICM since its first session. In this regard, concerns were raised about the low level of implementation of ICM recommendations, especially those pertaining to the harmonization of working methods. In addition, the chairpersons discussed the challenges resulting from limited financial resources and expressed concern that the thematic focus of the MC and the ICM were increasingly overlapping. The meeting agreed that the current format of the ICM should be abolished and that ad hoc thematic working groups will be established at the request of the chairpersons. It is envisaged that the working groups would discuss issues of common interest, including the harmonization of treaty body jurisprudence.
- ▶ The joint meeting of the 17th meeting between special rapporteurs/representatives, experts and chairpersons of working groups of the special procedures and the chairpersons and members of treaty bodies discussed a compilation of good practices related to cooperation. It adopted a number of joint recommendations, including on mutual follow-up and cross referencing, holding of regular joint meetings and the timely sharing of workplans, as well as joint advocacy for the ratification of treaties.

- ▶ To improve access to the outputs of the UN human rights mechanisms and increase coherence in implementation, OHCHR continued to manage the Universal Human Rights Index (see box above). In 2011, the process of transferring the technical support of the Index from an external partner to OHCHR was completed, giving OHCHR more flexibility to further develop the Index, including so that it can be used as a follow-up tool to recommendations. The transfer was undertaken to better ensure timely and comprehensive updating to facilitate access to recommendations by interested stakeholders, particularly the implementing actors.

## Global Management Outputs

### Sharing OHCHR's strategic direction (GMO 1)

- ▶ In cooperation with the Human Rights Council and the Special Procedures Division, HRTD took the lead in facilitating a session for headquarters and all field presence staff during the OHCHR annual planning week convened in October 2011 on supporting human rights mechanisms in 2012. During the session, participants discussed how the human rights mechanisms could support the results that field presences are aiming to achieve on the ground. The session also focused on how field presences and other parts of OHCHR could better support the work of the mechanisms to ensure more relevant outputs. Participants considered ways to foster coherence among the different mechanisms, resulting in the development of a joint planning calendar for activities conducted by the human rights mechanisms in 2012. This calendar is currently an internal document. Technological means are being explored to make it publicly available.



Panel discussion on the strengthening of the treaty body system, March 2011.

- ▶ HRTD continued to hold regular Division and Section meetings within the Office and information was shared through regular messages from the Director on important developments, particularly the treaty body strengthening process, management issues and senior management decisions. New staff received a welcome package. Information on the treaty body strengthening process was regularly shared across Divisions.

### Transparent and timely decision-making (GMO 2)

- ▶ HRTD established improved coordination mechanisms, such as weekly meetings of treaty body secretaries and regular all staff meetings, to engage in open discussions on matters affecting the Division and the treaty bodies. Staff were regularly informed of strategic discussions and asked to provide input where relevant. HRTD staff members were given the chance to participate in task forces reviewing the feasibility of proposals made by stakeholders during the treaty body strengthening process, providing them with an opportunity to express their thoughts and opinions prior to the 2012 conclusion of the consultative phase of the process.

### Servicing human rights mechanisms (GMO 4)

- ▶ In 2011, HRTD continued to improve its working methods to better support the work of the treaty bodies. Based on the recommendations of a consultant in 2010 and an interdivisional retreat in September 2010, HRTD worked towards more effective joint planning and increased visibility for the calendar of upcoming State Party reviews. HRTD took action to implement all five main recommendations of the consultant through: increased engagement with other Divisions in support of the treaty bodies; enhanced focus on follow-up through the designation of staff members to engage with other Divisions; facilitation of stakeholder consultations on treaty body strengthening; and efforts for greater efficiency in the production of documentation and adherence to page limits for State Party reports.
- ▶ The Division held a retreat for general service staff to develop ideas on how to improve and harmonize their working methods. Since the retreat, general service staff have met on a regular basis to exchange good practices and develop improved working methodologies.
- ▶ Since 2010, HRTD has systematically used a number of tools to communicate to a wide range of stakeholders on developments in the treaty body system. The quarterly HRTD Newsletter,

previously an internal OHCHR information tool, is now shared with States, UN partners, national human rights institutions (NHRIs) and civil society organizations (CSOs). Through weekly civil society broadcasts, subscribers are kept abreast of the regular work of the treaty bodies. An internal weekly update is shared with OHCHR staff and all 172 treaty body experts to provide an overview of the treaty body sessions as well as highlights of the Division's work and other issues that are of relevance to the work of the treaty bodies.

- ▶ HRTD launched the updated DVD on treaty bodies "The treaty bodies: Bringing human rights home." The tool is available in all six of the UN's official languages. The DVD is a useful tool for OHCHR, UN experts, States and other stakeholders to further facilitate and promote the work of the human rights treaty bodies.
- ▶ OHCHR has recently updated the factsheet on the UN human rights treaty body system which will

be available in all six of the UN's official languages in 2012.

- ▶ Also in 2011, the Division delivered 40 briefings on treaty bodies, the reporting process and the work of the Division to a wide range of actors, including State Party representatives, civil society organizations, lawyers, academics and students.

### Supporting field operations (GMO 5)

- ▶ The HRTD worked to achieve better and more efficient planning with other parts of the Office and especially with field presences. In 2011, HRTD established a joint human rights mechanisms planning calendar for all treaty body sessions in 2012 which provides information on scheduled Member States reports (see above). Also in 2011, HRTD revived a system of regional and thematic focal points who regularly interacted with other parts of the Office to provide treaty body relevant expertise and ensure the integration of a treaty body perspective. The

## Absolute Prohibition of All Forms of Violence against Children

The Committee on the Rights of the Child adopts General Comment No. 13 on article 19 of the Convention on the Rights of the Child

"No exceptions." The Committee on the Rights of the Child is unambiguous: However light, all forms of violence against children are preventable and unacceptable. Prevention of all forms of violence is best achieved by securing and promoting children's rights to respect for their human dignity and physical and psychological integrity. "All other arguments presented here reinforce but do not replace this human rights imperative. Strategies and systems to prevent and respond to violence must therefore adopt a child rights rather than a welfare approach."

This human rights imperative stands at the heart of article 19 of the Convention on the Rights of the Child. This was confirmed by the Committee on the Rights of the Child in February 2011 when it adopted General Comment No. 13 on the right of the child to freedom from all forms of violence. Under article 19, States Parties have an obligation "to protect the child from all forms of physical and mental

violence, injury, abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse." The objective of the general comment is to guide States Parties in understanding this obligation which requires them to "prohibit, prevent and respond to all forms of physical and mental violence."

The general comment was drafted against the backdrop of the "alarming" extent and intensity of the phenomenon and the failure to legally prohibit all forms of violence against children. As noted by the Special Representative of the Secretary-General on Violence against Children in her annual report (A/HRC/16/54, 28 February 2011), 29 countries have now introduced a comprehensive legal prohibition on violence against children in all settings. While this indicates that progress has been made since the completion of the 2006 Secretary-General's Study on Violence against Children – when only 16 countries had such legislation in place – a majority of States still fail to prohibit all forms of violence against children in their domestic legislation. Where this violence exists, enforcement tends to be weak.

The Committee clarifies that article 19 also applies to children without obvious primary or proxy caregivers, such as children in child-headed families, children in street situations and children of migrant parents or unaccompanied children. In such situations, "the State Party is obliged to take responsibility as the de facto caregiver or the one 'who has the care of the child,' even if these children are not within the context of physical care settings such as foster homes, group homes or NGO facilities."

Recognizing that families have the greatest potential to protect children and prevent violence, the general comment stresses that strengthening family life, supporting and working with families with challenges must be a prioritized child protection activity. In this regard, the Committee underlines that much of the violence experienced by children, including sexual abuse, "takes place within a family context and stresses the necessity of intervening in families if children are exposed to violence by family members."

focal point system proved to be especially effective in OHCHR's annual planning week in October 2011.

### Skills and competencies (GMO 6)

- ▶ The Harmonization and Capacity-Building Section, in coordination with staff servicing specific treaty bodies, carried out a comprehensive review of the Division's training tools on treaty bodies. The tools were consolidated with a view to enhanced and harmonized delivery of training to stakeholders.
- ▶ All HRTD staff servicing treaty bodies actively used the Universal Human Rights Index to ensure consistency in the work and output of treaty bodies. During 2011, several one-to-one training sessions and briefings were provided to staff on how to add recommendations into the Index. Five presentations on the UHRI were also provided to external audiences, such as representatives of regional organizations, diplomats and special procedures mandate-holders.

### Resources (GMO 8)

- ▶ In 2011, HRTD and DEXREL collaborated to obtain private corporate sector funding for activities. The insurance firm, Aviva, financed activities emanating from Human Rights Council resolution 16/12 on the rights of children working and/or living on the street.

## Challenges and lessons learned

With the entry into force of the International Convention for the Protection of All Persons from Enforced Disappearance on 23 December 2010, the Committee on Enforced Disappearances was added to the human rights treaty body system. This brings the number of treaty bodies to 10, and the number of experts to 172, placing an ever-increasing strain on, and challenge for, OHCHR to provide adequate and high-quality support to the treaty bodies.

A recent increase in membership of the Subcommittee on Prevention of Torture and the Committee on the Rights of Persons with Disabilities have led to additional resource demands on the Office. Once the Optional Protocols to the CRC and ICESCR enter into force, this strain will become more pronounced.

At present, only one-third of States Parties comply with their reporting obligations in a timely manner. Even with this poor level of compliance, the treaty bodies are faced with serious structural difficulties in addressing the workload. In 2011, an average of 250 reports and 470 individual cases were pending consideration by the treaty bodies.

The High Commissioner-initiated process of reflection on strengthening the treaty body system made clear that the continued expansion of the treaty body system, particularly during times of financial hardship, requires the Office to strike an inevitably precarious balance between recognizing the need for greater harmonization and preserving the unique specificities of treaty bodies, while also ensuring cost efficiencies and a strengthening of the overall impact of the treaty bodies on the ground.

### Treaty bodies in figures

**9** core international human rights treaties

**10** treaty bodies

**39** new ratifications in 2011

Approximately **120** State Party reports considered annually

**288** reports pending consideration at the end of 2011

Around **15,000** pages of documentation processed annually (State Party reports, lists of issues, concluding observations, views and decisions)

Approximately **7,000** recommendations adopted annually

Adopted final decisions on nearly **230** communications

**71** weeks in session

**172** treaty body experts as of 2011, versus 162 at the end of 2010

## Overview of treaties, committees and competences

| Treaty Body  | Number of States Parties      | Number of weeks in session annually | Periodicity of obligation to report         |
|--|-------------------------------|-------------------------------------|---|
| Committee on Economic, Social and Cultural Rights  | 160                           | 8                                   | 5 years                                     |
| Human Rights Committee   | 167                           | 12                                  | 3, 4 or 5 years as per Committee's decision |
| Committee on the Elimination of Racial Discrimination  | 175                           | 8                                   | 2 years                                     |
| Committee on the Elimination of Discrimination against Women   | 187                           | 14                                  | 4 years                                     |
| Committee on the Rights of the Child   | 193<br>OP-AC 143<br>OP-SC 151 | 12                                  | 5 years                                     |
| Committee Against Torture  | 149                           | 8                                   | 4 years                                     |
| Subcommittee on Prevention of Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment | 61                            | 3                                   | N/A   |
| Committee on Migrant Workers   | 45                            | 3                                   | 5 years                                     |
| Committee on the Rights of Persons with Disabilities   | 108                           | 3                                   | 4 years                                     |
| Committee on Enforced Disappearances   | 30                            | 2                                   | As per Committee's decision                 |

| Functions   |  |  |
|---|--|--|
| Reviews reports and issues recommendations of States Parties  | Considers individual complaints  | Conducts visits to countries   |
| Articles 16-17<br>Number of reports examined per year: 10<br>Number of reports pending examination: 44<br>(estimated backlog of over four years)  | Optional Protocol<br>(not yet entered into force)  | Article 11 Optional Protocol<br>Confidential inquiries on systematic violations<br>(not yet entered into force)                    |
| Article 40<br>Number of reports examined per year: 15<br>Number of reports pending examination: 25<br>(estimated backlog of nearly two years)   | Optional Protocol<br>Number of registered communications pending examination: 340<br>Average time between registration and final decision on merits: 3½ years                                | No   |
| Article 9<br>Number of reports examined per year: 24<br>Number of reports pending examination: 16<br>(estimated backlog of less than a year)  | Article 14<br>Number of registered communications pending examination: 3<br>Average time between registration and final decision on merits: 1½ years   | No   |
| Article 18<br>Number of reports examined per year: 24<br>Number of reports pending examination: 48<br>(estimated backlog of two years)  | Optional Protocol<br>Number of registered communications pending examination: 10<br>Average time between registration and final decision on merits: 2 years                                  | Articles 8-10 Optional Protocol<br>Confidential inquiries on systematic violations   |
| Article 44<br>Number of reports examined per year: 30<br>(including OPAC and OPSC reports)<br>Number of reports pending examination: 99<br>(including OPAC/OPSC reports)<br>(estimated backlog of over three years) | Optional Protocol<br>(not yet entered into force)  | Articles 13-14 Optional Protocol<br>Confidential inquiries on systematic violations<br>(not yet entered into force)                |
| Articles 19-20<br>Number of reports examined per year: 14<br>Number of reports pending examination: 20<br>(estimated backlog of nearly two years)   | Article 22<br>Number of registered communications pending examination: 100<br>Average time between registration and final decision on merits: 2½ years                                       | Article 20<br>Confidential inquiries on systematic violations  |
| N/A   | N/A  | Articles 11-16<br>Subcommittee visits places of deprivation of liberty and communicates its recommendations by confidential report |
| Articles 73-74<br>Number of reports examined per year: 4<br>Number of reports pending examination: 6<br>(estimated backlog of 1½ years)   | Article 77<br>(not yet entered into force)   | No   |
| Articles 35-36<br>Number of reports examined per year: 4<br>Number of reports pending examination: 23<br>(estimated backlog of nearly six years)  | Optional Protocol<br>Number of registered communications pending examination: 5<br>Average time between registration and final decision: N/A (Committee has yet to adopt its first decision) | Article 6 Optional Protocol<br>Confidential inquiries on systematic violations   |
| Article 29<br>Number of reports examined per year: to be determined<br>Number of reports pending examination: 0   | Article 31   | Article 33<br>Visit on serious violations  |